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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,215	12/19/2001	Anthony Elliott	18872.0114	8507

7590

05/08/2003

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EXAMINER

DUNWOODY, AARON M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,215

Applicant(s)

ELLIOTT, ANTHONY

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7,9-12,19,20,23-36 and 38-45 is/are rejected.
- 7) ☒ Claim(s) 4-6,8,13-18,21,22 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to because reference numerals without leader lines should be deleted, and the incorrect crosshatch is illustrated. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 26, 28, 29 and 30. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),

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and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Title headings are missing.

The disclosure is objected to because of the following informalities:

Page 7, line 14, change from "the invention;" to "the invention, respectively;".

Page 8, delete line 5, because the specification is intended to support and breathe life into the claims, not vice versa.

Appropriate correction is required.

Claim Objections

Claims 2, 10, 24 and 36 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 3 recites the limitation "the bolt action of the surfaces" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 3, the phrase "and/or" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable.

Claims 4-6, 13-18 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim 20, line 2, change from "allow the said" to "allow said".

Claim 21 recites, "a concave recess cooperates with a convex portion or portions dimensioned so that tightening the bolt urges the bifurcation together"; however, it is not clear to the Examiner where concave recess and convex portion(s) reside. The Examiner will assume the concave recess resides on the nut and the convex portion(s) resides on the bifurcation.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3, 7, 9-12, 19, 20, 23-31, 34-36, 38, 41, 42 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 5873611, Munley et al.

In regards to claim 1, Munley et al discloses a nut and seat assembly for a clamp, comprising a nut (104) to be tightened onto a bolt (100); and a clamp member (20) having a seat (104) for the nut and an aperture defined by prongs (62) so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the seat; wherein tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt.

In regards to claim 2, Munley et al discloses tightening of the nut onto the seat pushes the prongs of the clamp member together and can tighten the prongs around the bolt.

In regards to claim Munley et al discloses the nut comprising a mating surface at or towards a lower edge of the nut which co-operates with a corresponding mating surface on the seat so that as the nut is tightened onto the bolt action of the surfaces on each other prevents outward movement of the prongs and/or pushes the prongs together and tightens them around the bolt.

In regards to claim 7, Munley et al disclose (col. 2, lines 40-65 through col. 3, lines 1-37) a method of securing a clamp around a pipe, comprising locating an upper clamp member over the pipe; locating a lower clamp member under the pipe, respective first ends of the clamp members being connected, optionally via a pivot, and a bolt being attached to the second end of one of the clamp members; and tightening a nut onto the bolt so the nut engages with a seat on the second end of the other clamp

member so as to close the clamp; wherein the seat comprises prongs forming an open-sided aperture for the bolt; and tightening the nut prevents outward movement of the prongs away from the bolt.

In regards to claim 9, Munley et al discloses a clamp, for clamping pipework, comprising a first clamp member (22); a second clamp member (20); a bolt; and a nut such that when the first clamp member is attached to the second clamp member and the bolt is attached to the first clamp member the nut can be tightened onto the bolt so as to clamp pipework between the first and second clamp members, wherein the second clamp member comprises an aperture defined by prongs and into which the bolt can be moved laterally, and tightening of the nut onto the second clamp member prevents splaying of the prongs.

In regards to claim 10, Munley et al discloses tightening of the nut onto the second clamp member exerts an inward force on the prongs, towards the bolt.

In regards to claims 11, Munley et al discloses the second clamp member comprising an open-sided, U-shaped aperture defined by prongs and in use the bolt can be moved laterally in and out of the aperture and the nut is tightened axially onto the bolt.

In regards to claim 12, Munley et al discloses the first and second clamp members being pivotally connected at respective first ends.

In regards to claim 19, in figures 1 and 2, Munley et al discloses a clamp, having an upper member and a lower member, to go around a pipe, a nut and a bolt, wherein the bolt is separate from the lower clamp member and comprising a retention means

and the lower clamp member comprising an aperture through which the bolt passes such that when the bolt has been passed through the aperture removal of the bolt from the lower clamp member is resisted by the retention means, and wherein the first and second clamp members are separate but pivotally engaged to each other and wherein one of the first and second members comprises a resilient retention means and the other comprises a surface against which acts the retention means, and wherein it is easy to snap the first and second members into pivotal engagement but more difficult to disengage the first and second clamp members thereafter.

In regards to claim 20, Munley et al discloses a pipe clamp comprising at least first and second parts having a pivotal connection to allow the at least first and second parts to be opened for receiving a pipe, and a nut and bolt which can be tightened to secure the clamp on the pipe, one of the parts having ends and having a bifurcation at one end through which the bolt passes, wherein the end mates directly with the nut when it is tightened on the bolt so as to limit opening of the bifurcation (when all components are tightened onto the pipe).

In regards to claim 23, Munley et al discloses a clamp, for clamping pipework, comprising a first clamp member; a second clamp member; a bolt; and a nut such that when the first clamp member is attached to the second clamp member and the bolt is attached to the first clamp member the nut can be tightened onto the bolt so as to clamp pipework between the first and second clamp members, wherein the second clamp member comprises an aperture defined by prongs and into which the bolt can be moved

laterally, the nut mates directly with a seat on the second clamp member and tightening of the nut onto the second clamp member prevents splaying of the prongs.

In regards to claim 24, Munley et al discloses tightening of the nut onto the second clamp member exerts an inward force on the prongs, towards the bolt.

In regards to claim 25, Munley et al discloses the second clamp member comprising an open-sided, U-shaped aperture defined by prongs and in use the bolt can be moved laterally in and out of the aperture and the nut is tightened axially onto the bolt.

In regards to claim 26, Munley et al discloses the first and second clamp members being pivotally connected at respective first ends.

In regards to claim 27, Munley et al discloses the bolt being separate from the first clamp member and comprising a retention means and the first clamp member comprises an aperture through which the bolt passes such that when the bolt has been passed through the aperture removal of the bolt from the first clamp member being resisted by the retention means.

In regards to claim 28, Munley et al discloses the retention means comprising a resilient, angled projection so the bolt can easily be inserted into the aperture but is more difficult to remove once inserted.

In regards to claim 29, Munley et al discloses the bolt comprising a T-shaped end portion to engage against the first clamp member in use and to act as a pivot for pivotal movement of the bolt relative to the first clamp member.

In regards to claim 30, Munley et al the end that receives the nut the bolt comprising a non-threaded portion (the tapered portion) to facilitate location of the nut onto the bolt.

In regards to claim 31, Munley et al discloses the first and second clamp members being separate but pivotally engaged to each other and wherein one of the first and second members comprises a resilient retention means and the other comprises a surface against which acts the retention means, and wherein it is easy to snap the first and second members into pivotal engagement but more difficult to disengage the first and second clamp members thereafter.

In regards to claim 34, Munley et al discloses projections (63') extending from the prongs and prevent overclosing of the clamp.

In regards to claim 35, Munley et al discloses a nut and seat assembly for a clamp, comprising a nut to be tightened onto a bolt; and a clamp member having a seat for the nut and an aperture defined by prongs so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the seat; wherein the nut and seat mate directly and tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt.

In regards to claim 36, Munley et al discloses tightening of the nut onto the seat pushes the prongs of the clamp member together and can tighten the prongs around the bolt.

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In regards to claim 38, Munley et al discloses prongs of the clamp member forming a U-shaped aperture such that in use a bolt can be inserted laterally into the open end of the aperture and the seat is formed from the sides of the prongs.

In regards to claim 41, Munley et al discloses projections extend from the prongs and prevent overclosing of the clamp.

In regards to claim 42, Munley et al discloses a clamp, having an upper member and a lower member, to go around a pipe, a nut and a bolt, wherein the bolt is separate from the lower clamp member and comprises a retention means and the lower clamp member comprises an aperture through which the bolt passes such that when the bolt has been passed through the aperture removal of the bolt from the lower clamp member is resisted by the retention means, and wherein the first and second clamp members are separate but pivotally engaged to each other and wherein one of the first and second members comprises a resilient retention means and the other comprises a surface against which acts the retention means, and wherein it is easy to snap the first and second members into pivotal engagement but more difficult to disengage the first and second clamp members thereafter.

In regards to claim 44, Munley et al discloses a nut and seat assembly comprising a nut to be tightened onto a bolt; and a clamp member having a seat for the nut and an aperture defined by prongs so the bolt can be inserted laterally into the aperture and the nut can be tightened axially against the seat; wherein tightening of the nut onto the seat prevents outward movement of the prongs away from the bolt.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32, 33, 39, 40, 43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munley et al.

In regards to claims 32, 33, 39, 40, 43 and 45, Munley et al discloses the claimed invention except for the clamp being glass-filled nylon, plastics material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the clamp with glass-filled nylon, plastics material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

Claims 8, 21, 22 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is (703)

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306-3436. The examiner can normally be reached on Monday - Friday between 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

.amd
April 30, 2003


Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3670